UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,570	07/30/2003	Elmer M. Johnson	1111.03001	1569

24254 7590 06/07/2006

ROGER A JACKSON, ESQ
800 PENNSYLVANIA
SUITE 1504
DENVER, CO 80203-3185

EXAMINER
ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,570	JOHNSON ET AL.	
	Examiner	Art Unit	
	Gary Estremsky	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,8-12,16,17 and 19* is/are rejected.

7)☒ Claim(s) *5-7,13-15,18,20* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1, 9, and 17 are objected to because of the following informalities:

Claim 1 – "a means rotational axis" should be replaced with –a rotational axis--.

Claim 9 – "a means rotational axis" should be replaced with –a rotational axis--.

Claim 17 - "edge in positioned" should be replaced with –edge is positioned--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,367,700 to Carnicero.

Carnicero '700 teaches Applicant's claim limitations including : a "channeled extension beam" - 9, a "means for manually selectively rotatably clamping,..." - including 3,4. The clamping structure of the reference is equivalent to that disclosed and is disclosed to perform the broadly-recited function. Recitation of "by applying an external manual force in conjunction with manual forward or reverse rotation" has been

considered does not clearly define the "external manual force" in such a way as to distinguish from squeezing the knob of the prior art or otherwise applying the force inherently need to 'grip' and rotate the knob. The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4, 8-12, 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3,367,700 to Carnicero in view of U.S. Pat. No. 5,579,561 to Smith.

The Smith '561 reference is cited for its teaching that it is well known in the art of turn knobs to provide a knob with means to prevent infants from effectively operating the knob. In that respect, Smith '561 teaches a knob where an external compressive force in the axial direction must be applied before rotation of the knob will be effective in

operating 43. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the latch of Carcinero '700 with child safety turn knobs such as that shown in Smith '561 in order to prevent infants from effectively operating the knob as taught by Smith '561 in order to prevent a toddler from opening the doors to which the lock is applied.

Although Carnicero '700 does not explicitly list the beam being made from any of the specific materials listed, the examiner takes Official Notice that any one of the materials listed is well known to those of ordinary skill in the art for forming rigid structures whereby one of ordinary skill in the art would have found it an obvious design choice at the time of the invention to form the beam from any one of the materials to optimize corrosion-resistance, cost, manufacturability, etc where the choice of any one of the materials listed would not otherwise affect function of the device.

As regards claim 8, although the reference does not disclose indicia on the handles to explain how to use same, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the word 'turn', 'tighten', or an 'arrow' as might be desired since the addition of addition would not otherwise affect function of the device and amounts to little more than a design choice.

Allowable Subject Matter

5. Claims 5-7, 13-15, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. While favorable amendments have overcome many grounds of rejection, argument that the Smith '561 reference would not be operable without its knob is not relevant to the actual grounds of rejection which only relies upon the teaching that it is well known to provide that particular type knob structure so as to prevent children from operating knob structure. The rejection is based on the premise that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Carnicero '700 to include similar knob structure so as to prevent children from opening the doors, motivation long known in the art. Otherwise, arguments that amendments to claims 17 and 19 overcome rejection made under 35 USC 102 are not persuasive inasmuch as the reference explicitly discloses the additional structure of "pair of adjacent door edges in the closed state" with the channel placed thereon. Tightening the knobs reads on broad limitation of "further substantially secured".

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gary Estremsky
Primary Examiner
Art Unit 3676